

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES OF AMERICA,	§	
Plaintiff/Respondent,	§	
	§	
V.	§	CR. No. C-07-573
	§	C.A. No. C-08-191
JOSE ANTONIO LARA-GARCIA,	§	
Defendant/Movant.	§	

**ORDER FOR RESPONDENT TO ANSWER,
ORDER ALLOWING MOVANT TO REPLY AND
ORDER DENYING MOTION TO PROCEED *IN FORMA PAUPERIS***

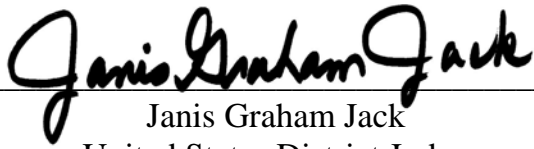
On June 9, 2008, the Clerk received Movant Jose Antonio Lara-Garcia's ("Lara-Garcia") motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255. It is now ORDERED that the United States answer the § 2255 motion not later than sixty days after the entry of this Order. It is further ORDERED that the United States provide, at the time of its answer, transcripts of all pertinent proceedings that are not already part of the record. Relevant affidavits, if any, are also to be filed with the answer.

Pursuant to Rule 5(d) of the RULES GOVERNING SECTION 2255 PROCEEDINGS FOR THE UNITED STATES DISTRICT COURTS (2008), Lara-Garcia may file a reply not later than thirty days after service of the government's answer.

Additionally, Lara-Garcia has also filed an application to proceed *in forma pauperis*. (D.E. 28.) For purposes of filing fees, a motion filed under 28 U.S.C. § 2255 is essentially a continuation of the defendant's criminal case. See United States v. Cole, 101 F.3d 1076 (5th Cir. 1996) (characterizing § 2255 motion and indicating that it is not a civil action for purposes of the Prison Litigation Reform Act). In this district, no filing fee is required to file such a motion. Accordingly,

there is no need for *in forma pauperis* status in this matter. Lara-Garcia's motion to proceed *in forma pauperis* (D.E. 28) is therefore DENIED AS MOOT.

It is so ORDERED this 25th day of June, 2008.



Janis Graham Jack
United States District Judge